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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,771	06/26/2003	Niko Eiden	915-014.002	8092

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EXAMINER

NGUYEN, DUC M

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/608,771	EIDEN, NIKO	
	Examiner	Art Unit	
	Duc M. Nguyen	2685	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The references listed in the information disclosure statements submitted on 6/26/03 has been considered by the examiner (see attached PTO-1449).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **1-5, 8-12, 15** are rejected under 35 U.S.C. 102(b) as being anticipated by **Hayes, Jr. (US Pat. Number 6,002,927)**.

Regarding claim **1**, **Hayes** discloses a vibrating portable device, comprising:

- a body (see Figs. 1-3);
- a driving axle as claimed (see Figs. 1-3);
- a weight unit with mass center and radius as claimed (see Figs. 1-3 and col. 4, lines 63-67);
- an electrical motor (rotor 22) as claimed (see col. 6, lines 43-67).

Regarding claim **2, 4-5, 9**, the claims are rejected for the same reason as set forth in claim 1 above. In addition, it is clear that Hayes would disclose two weigh elements as claimed (see Figs. 2-3 and col. 6, line 43 – col. 7, line 23).

Regarding claims **3, 10-11**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, it is clear that Hayes would disclose the weigh elements are adjusted as claimed, in order to change the offset  $r$  ( $R_1$ ,  $R_2$ ) as shown in Figures 2-3.

Regarding claim **8**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, Hayes discloses the motor is adapted to adjust the product (i.e, the amplitude) down to zero (see col. 7, lines 3-6).

Regarding claim **12**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, with the broadest reasonable interpretation, the tab 104 would read on the resilient member 51 as claimed because they are both being used to change the angular disposition of the weight elements (see Figs. 2-3 and col. 7, lines 7-23).

Regarding claim **15**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, it is clear that Hayes would disclose the motor is adapted to adjust the product (i.e, the amplitude) responsive to at least one electrical signal as claimed (see col. 5, lines 53 – 65).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim **20** is rejected under 35 U.S.C. 103(a) as being unpatentable by **Ricoh** (JP **09-37322**) in view of **Hayes, Jr.** (US Pat. Number **6,002,927**).

Regarding claim **20**, **Ricoh** discloses a method of messaging by vibrating a portable device based on the extracted code information from the receiving message (see Abstract). Although **Ricoh** is silent on the adjusting of the mass center and offset radius  $r$  of a weight element, it is noted that such adjustments are well known in the art in order to provide different amplitudes of vibrations (see **Hayes**, col. 4, lines 63-67). Therefore, in order to provide a vibration in accordance with the extracted code from the message (i.e., Morse code), it is clear that the vibrator in **Ricoh** would obviously comprise a weight, driving axle and motor as recited in the claim, in order to generate vibrations.

6. Claims **1**, **15-17**, **20** are rejected under 35 U.S.C. 103(a) as being unpatentable by **Uriya** (US **6,574,489**) in view of **Hayes, Jr.** (US Pat. Number **6,002,927**).

Regarding claim **1**, **Uriya** discloses a method for vibrating a portable device with different amplitudes, patterns or frequencies (rpm) of vibrations based on the communication mode from the receiving message (see Fig. 10 and col. 2, lines 62-65). Here, although **Uriya** is silent on the rotor, driving axle, weight elements and the adjusting of the mass center and offset radius  $r$  of a weight element, it is noted that such adjustment of weight elements is well known in the art in order to provide different amplitudes of vibrations (see **Hayes**, col. 4, lines 63-67). Therefore, in order to provide a

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vibration in accordance with the communication mode extracted from the incoming message, it is clear that the vibrator in **Uriya** would obviously comprise at least a weight, a driving axle and a motor as recited in the claim, in order to generate a desired vibration.

Regarding claims **15-16**, the claims are rejected for the same reason as set forth in claim 1 above. In addition, it is clear that **Uriya** as modified would disclose a motor and an electrical signal selected from a notification signal or message signal as claimed, in order to generate different amplitudes, patterns or frequencies (rpm) of vibrations in accordance with a receive mode (see **Uriya** Fig. 10 and col. 2, lines 62-65).

Regarding claims **17-19**, the claims are rejected for the same reason as set forth in claim 1 above. In addition, it is clear that **Uriya** as modified would disclose the adjusting and a triggering event selected from a notification signal or message signal as claimed, in order to generate different amplitudes, patterns or frequencies (rpm) of vibrations in accordance with a receive mode (see **Uriya** Fig. 10 and col. 2, lines 62-65).

Regarding claim **20**, the claim is interpreted and rejected for the same reason as set forth in claim 1 above, wherein the receipt of an incoming call would read on receiving a message.

7. Claims **6-7** are rejected under 35 U.S.C. 103(a) as being unpatentable by **Uriya** in view of **Hayes** and further in view of **Eiji et al** (Abstracts of JP **07285638** in the submitted IDS).

Regarding claim **6**, the claim is rejected for the same reason as set forth in claim 1 above. However, **Uriya** fails to disclose two electrical motors for the vibrator. However, using two electrical motors for the vibrator is known in the art as disclosed by **Eiji**, for easily changing the amplitude of vibration in a short time (see Abstract). Therefore, one of ordinary skill in the art would recognize the benefit of using two electrical motors in **Eiji** for further modifying **Uriya** to include two electrical motors as claimed, for easily changing the amplitude of vibrations in a short time.

Regarding claim **7**, the claim is rejected for the same reason as set forth in claim 6 above. In addition, since **Uriya** discloses a control circuit for control the type of vibration patterns, it is clear that **Uriya** as modified would disclose a controller for controlling operations of the electrical motors as claimed, in order to generate different amplitude, pattern or frequency (rpm) of vibrations.

### ***Allowable Subject Matter***

8. Claims 13-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US005436622A to **Gutman** et al,

US006160489A to **Perry** et al,

US006211795B1 to **Izuta**,  
US006281785B1 to **Hamaguchi**,  
US006427815B1 to **Zeller**, and  
JP09248315A to Namiki Seimitsu Hoseki.

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(571) 273-8300 (for **formal** communications intended for entry)

(571)-273-7893 (for informal or **draft** communications).

Hand-delivered responses should be brought to Customer Service Window,  
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Any inquiry concerning this communication or communications from the examiner  
should be directed to Duc M. Nguyen whose telephone number is (571) 272-7893,  
Monday-Thursday (9:00 AM - 5:00 PM).

Or to Edward Urban (Supervisor) whose telephone number is (571) 272-7899.

Duc M. Nguyen

Oct 27, 2005

